

Exhibit 2

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

~~~~~

CHMURA ECONOMICS & ANALYTICS, LLC  
Plaintiff

vs. Case No. 3:19-CV-00813

RICHARD LOMBARDO  
Defendant

~~~~~

REMOTE VIDEO DEPOSITION OF:
LESLIE PETERSON, VOL. I

Taken on:
April 30, 2020
2:50 p.m.

Taken at:

McGuire Woods, LLP
Gateway Plaza
800 East Canal Street
Richmond, VA

Kelliann D. Linberg, RPR, Notary Public

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15

16

17 ALSO PRESENT:

18 RICHARD LOMBARDO

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1	INDEX OF EXHIBITS		
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1 COURT REPORTER: The attorneys
2 participating in this deposition acknowledge that I am
3 not physically present in the deposition room and that
4 I will be reporting this deposition remotely. They
5 further acknowledge that, in lieu of an oath
6 administered in person, the witness will verbally
7 declare her testimony in this matter is under penalty
8 of perjury. The parties and their counsel consent to
9 this arrangement and waive any objections to this
10 manner of reporting.

11 Please indicate your agreement by stating
12 your name, firm name, party represented and your
13 agreement on the record."

14 MS. COOPER: My name is Christine Cooper
15 and I represent Mr. Lombardo, Richard Lombardo, and I
16 agree.

17 MR. POWELL: My name is Tom Powell. I am
18 co-counsel for Mr. Lombardo, and I am with the firm of
19 the Law Offices of Thomas Powell, and I also agree.

20 MS. SIEGMUND: This is Heidi Siegmund of
21 McGuire Woods, and we also agree.

22 MS. LESLIE PETERSON: Leslie Peterson of
23 Chmura Economics, and I agree.

24 - - - - -

25 LESLIE PETERSON, of lawful age, called

1 for examination, as provided by the Ohio Rules of Civil
2 Procedure, being by me first duly sworn, as hereinafter
3 certified, deposited and said as follows:

4 EXAMINATION OF LESLIE PETERSON

5 BY MS. COOPER:

6 Q. Good afternoon, Ms. Peterson. My name is
7 Christine Cooper and I represent Richard Lombardo in
8 the case filed by Chmura Economics & Analytics, LLC.
9 Can you state your name for the record?

10 A. Leslie Peterson.

11 Q. And what's your address, your residential
12 address?

13 A. My work address?

14 Q. No, your residential, your home address.

15 A. [REDACTED]. That's in
16 [REDACTED].

17 Q. Have you ever been deposed before?

18 A. Yes.

19 Q. When was the last time you were deposed?

20 A. 2010.

21 Q. How many times before have you been
22 deposed?

23 A. Once.

24 Q. What type of case was that?

25 A. A JobsEQ patent --

1 (Reporter asked for clarification).

2 A JobsEQ patent infringement case. Is that
3 better?

4 Q. Do you recall the case name?

5 A. The official case name?

6 Q. Yes.

7 A. I don't.

8 Q. Were you deposed in your individual
9 capacity?

10 A. My corporate and individual.

11 Q. Were you deposed in your corporate capacity
12 on behalf of Chmura Economics & Analytics, LLC?

13 A. Yes.

14 Q. Since it's been a while since you have been
15 deposed, I will go over some ground rules with you.

16 First, if you could say yes or no as opposed to head
17 shaking or saying uh-huh or uh-uh, that would be great,
18 so that the court reporter, which is already difficult
19 to do this when we are all in a room together, but now
20 that we are all separate, would appreciate if we could
21 articulate that. And I will be probably be the biggest
22 offender, but I'll do my best to follow my own rules.

23 If you can wait until I ask the full
24 question before you provide your answer, so that we are
25 not talking over each other. If you don't understand a

1 question I've asked, if I misstated it or it is just
2 confusing, please ask me to repeat or rephrase the
3 question.

4 And if you need a break, by all means say
5 so and we will take a break. The only request I would
6 have is if there is a pending question, you answer it
7 before we take that break. Do you understand?

8 A. I do understand.

9 Q. Did you bring anything with you to the
10 deposition today, any documents with you?

11 A. No.

12 Q. I am going to go into your background a
13 little bit. Can you tell me a little about your
14 education, your higher education?

15 A. I went to the University of Virginia,
16 College at Wise, studied chemistry and biology. And
17 then I later went to Clemson University and studied
18 marketing.

19 Q. What degrees did you earn from UVA?

20 A. Biology.

21 Q. And did you earn a degree from Clemson?

22 A. No.

23 Q. Tell me again what you were studying at
24 Clemson.

25 A. Marketing.

1 Q. Do you have any certifications?

2 A. I have IEDC Technology-led Economic
3 Development Certification.

4 Q. And can you explain what that is?

5 A. That's a certification within an
6 organization that specializes in the development of
7 economic development practitioners.

8 Q. And you are currently with Chmura Economics
9 & Analytics, LLC, correct?

10 A. Correct.

11 Q. And is it okay if I refer to it as Chmura?

12 A. We do.

13 Q. Okay. How long have you been at Chmura?

14 A. I started in 2002, May 21st.

15 Q. Well, you are coming up on an anniversary?

16 A. I am.

17 Q. That's great. Were you employed prior --
18 anywhere prior to starting at Chmura?

19 A. You want me to go in reverse,
20 chronological, or forward chronological?

21 Q. Either way you are comfortable doing it.

22 A. Okay. So I started with Eastman Kodak,
23 Eastman Chemical. I started out as a title chemist and
24 worked my way through customer services and then was in
25 worldwide sales. After that, I took a job at

1 Goldschmidt, which is Degussa, and that is a pigment
2 and surfactant manufacturing company in Richmond. And
3 then I joined Chmura.

4 Q. And in what capacity did you join Chmura
5 when you started?

6 A. Director of operations. I was an employee
7 with the option to become a partner later.

8 Q. And are you a partner now?

9 A. Yes.

10 Q. When did you become a partner?

11 A. 2004.

12 Q. I am going to go into a little more of
13 this, but I want to state, when we noticed your
14 deposition, we were noticing you -- you were designated
15 as a corporate representative for certain categories of
16 topics. You are also here to testify individually,
17 correct?

18 A. Yes.

19 Q. I would like to start with the corporate
20 representative portion of your deposition and leave the
21 individual portion to the end.

22 MS. SIEGMUND: Christine?

23 MS. COOPER: Yes.

24 MS. SIEGMUND: Sorry to interrupt you, but
25 I just realized that we cannot control exhibits from

1 the way we have this set up, so so I don't interrupt
2 your flow when you start putting up exhibits, we'll
3 take a five minute break and we will get that fixed so
4 that we can use those.

5 MS. COOPER: That would be fine. Do you
6 want to do that now?

7 MS. SIEGMUND: Yeah, let's go ahead and do
8 it now so we don't have to worry about it when you are
9 actually trying to do stuff.

10 MS. COOPER: Okay.

11 - - - - -

12 (Short break off the record.)

13 - - - - -

14 BY MS. COOPER:

15 Q. So -- and I can't remember the last
16 question I asked, so I may be repeating my question
17 again. But you're testifying as a corporate
18 representative of Chmura today, correct?

19 A. Right.

20 Q. Are you an owner of Chmura?

21 A. Yes.

22 Q. What is your ownership interest?

23 A. 42.5.

24 Q. What is your title?

25 A. President and Chief Strategy Officer.

1 Q. What are your responsibilities at Chmura?

2 A. I'm involved with the SEA Group, which is
3 Strategic Enterprise Advisers Group. We meet monthly,
4 sometimes quarterly to do forecasting for the company,
5 talk about hiring strategies, talk about continuous
6 improvements, and performance metrics. So I pretty
7 much manage the SEA Group process. I am also the head
8 of marketing. We are a small company, Ms. Cooper, so
9 we wear a lot of hats.

10 I'm also the head of marketing, and
11 developing marketing collateral, which we began to do
12 more as we had the resources to do that. And as a
13 partner, I have to make a lot of decisions about the
14 direction that the company wants to go and how we want
15 to penetrate market access, when we are changing
16 directions based off competitive analysis, et cetera.

17 Q. When did you become an owner of Chmura?

18 A. You already asked that, but do you want me
19 to repeat it?

20 Q. Yes, please.

21 A. 2004.

22 Q. Are you being paid for your testimony
23 today?

24 A. I don't understand that question.

25 Q. Outside of your normal compensation, are

1 you being paid for your testimony today?

2 A. No.

3 Q. I am going to show you what's been marked
4 as Defendant's Exhibit A, and I will share that with
5 you in a moment.

6 - - - - -

7 (Thereupon, Deposition Exhibit A, Copy
8 of Notice of Deposition, was marked for
9 purposes of identification.)

10 - - - - -

11 Q. I will give you a chance to look at that,
12 and you have control, so you should be able to scroll
13 through it.

14 A. (Reviewing.) Okay.

15 Q. Have you seen this document before?

16 A. Yes.

17 Q. And what is it?

18 A. What is it?

19 Q. Yes.

20 A. Is it the interrogatory ones?

21 Q. I'll represent to you that this is a Notice
22 of Deposition for a 30(b)6 witness, and if you scroll
23 down -- I will take control and I'll just scroll down
24 to the topics. Have you seen this Exhibit A before?

25 A. Yes.

1 Q. And you have been designated as a witness
2 on behalf of Chmura for certain of the topics listed on
3 this Exhibit A, correct?

4 A. Correct.

5 Q. And we will go through these topics
6 individually, but before we get to that; generally,
7 what did you do to prepare for your deposition today on
8 behalf of Chmura?

9 A. I reviewed documents that our counsel
10 suggested I review.

11 Q. What documents did you review?

12 A. Email, scanned documents from personnel
13 files.

14 Q. Did you review anything else?

15 A. I went into Salesforce and did some
16 research on some of the questions that Rick had
17 regarding his commission, and then I was able to take
18 that and then back it up with an email so I understood
19 what he was asking.

20 Q. What type of information did you look at on
21 Salesforce?

22 A. Contracts. License agreements.

23 Q. And what was the purpose of looking at
24 those?

25 A. I was trying to understand. Some of his

1 complaints were five years old, so I was trying to
2 understand why he had a complaint about it.

3 Q. What do you mean by complaint?

4 A. You know, the documents -- do you know the
5 licenses that he is questioning the commissions on? To
6 save us some time, are you aware of those?

7 Q. I am not the one that gets to be asked
8 questions, so you are going to have to answer my
9 question. Can you explain what you mean by complaint?

10 A. He had complaints about commissions from
11 some of his early deals.

12 Q. Did you review anything else?

13 A. Not that I am aware of or that I can
14 recall. Mostly emails.

15 Q. Do you remember any specific emails that
16 you reviewed?

17 A. I reviewed emails about the license
18 agreements that are in question. I reviewed emails
19 about the recruiting -- the recruiter that actually
20 brought Rick to the firm, and I also reviewed the
21 emails and the process for Jennifer Ludvik, and I
22 reviewed some invoices.

23 Q. What kind of invoices?

24 A. Invoices to clients, they were JobsEQ
25 clients.

1 Q. And you said you also reviewed personnel
2 files. What personnel files did you review?

3 A. I reviewed Rick's personnel files.

4 Q. How was Mr. Lombardo's personnel file kept?

5 A. Can you repeat the question?

6 Q. Sure. How was Mr. Lombardo's personnel
7 file kept?

8 A. How was it kept?

9 Q. Yes.

10 A. It was kept in the H.R. office under lock
11 and key.

12 Q. Is it a paper file?

13 A. It's paper and digital file.

14 Q. What is contained within the paper file?

15 A. His offer letter, his notes for annual
16 reviews. We didn't have a formal annual review form
17 like we have now when he first started. Any complaints
18 that he registered that we talked about were documented
19 in his personnel file.

20 Q. Is there anything else maintained within
21 his paper file?

22 A. There is information from GIS Web Tech on a
23 falsified offer letter that that company we have a
24 relationship related to him. But that falsified letter
25 is in the file.

1 Q. Anything else in his paper file?

2 A. I believe there is a file in there that
3 Aisha, our H.R. manager, documented as a result of
4 talking with Rick about his concerns from 2015 to 2019,
5 his complaints and his concern that if the company
6 moves forward and made any kind of changes to the sales
7 commission structure, he complained about that and was
8 very concerned about that. And that's documented.

9 Q. When you said "complaints," what type of
10 complaints are you referring to?

11 A. He complained that he did not get his merit
12 increase every year at his annual review.

13 Q. Were there any other complaints?

14 A. To H.R., no. That's the main one that kept
15 recurring, the concern about the company moving forward
16 with some sort of commission restructuring.

17 Q. Was there anything else contained within
18 his paper personnel file? You mentioned he also had a
19 digital file. What was contained within the digital
20 file?

21 A. It would be, like, a letter from GIS Web
22 Tech explaining the situation with Rick that was
23 electronically transferred and then printed out and put
24 in his personnel file. I didn't mean to imply that his
25 personnel file is sitting on an internet server

1 somewhere. They are not.

2 Q. About how big is Mr. Lombardo's personnel
3 file, if you had to ballpark on size?

4 A. 10 to 12 pages. I did not count them.

5 Q. Within in that personnel file, were there
6 any complaints relating to unpaid overtime?

7 A. No.

8 Q. And to your knowledge, was Mr. Lombardo's
9 entire personnel file produced in this case?

10 A. Was his entire personnel file reviewed in
11 this case?

12 Q. Not reviewed, produced.

13 A. Yes.

14 Q. And based on your statement, did you review
15 his entire personnel file?

16 A. Yes.

17 Q. Is there anything else that you did to
18 prepare for your deposition today?

19 A. I prayed.

20 Q. Did you speak with anyone?

21 A. I spoke with Chris and Sharon.

22 Q. And what was the substance of your
23 conversation?

24 MS. SIEGMUND: Just to the extent that gets
25 into any of your conversations with counsel, I would

1 instruct you not to talk about the content of those
2 conversations.

3 A. I cannot talk about the content of those
4 conversations.

5 Q. Well, every conversation you had with
6 either Dr. Chmura or Ms. Simmons was a communication
7 from an attorney?

8 A. We were speaking about the requirements of
9 Exhibit A.

10 Q. Can you say that again? I am not sure I
11 understand.

12 A. We were speaking to each other about the
13 requirements of Exhibit A.

14 Q. What do you mean by "the requirements of
15 Exhibit A?"

16 A. We wanted to make sure that we had covered
17 what we needed to explain in this deposition today.
18 That was considered our homework.

19 Q. Going back to -- well, actually, I am going
20 to move you into the first topic. So you have been
21 designated to testify regarding Topic Number 1 on
22 Exhibit A, which I think I am still sharing with you,
23 so you can still see it; is that correct?

24 A. Yes.

25 Q. And Topic Number 1 is, "Chmura's

1 organizational structure, including the physical
2 organization, ownership and supervising, management and
3 reporting structures," correct?

4 A. Correct.

5 Q. Now, you testified that you owned 42.5% of
6 Chmura. Who are the other owners?

7 A. Chris Chmura and John Chmura.

8 Q. Does anyone else own any -- does anyone
9 else have an ownership interest in Chmura?

10 A. They are profit interests, not ownership
11 interests.

12 Q. Can you explain to me the difference
13 between ownership interests and profit interests?

14 A. The three partners retain the lionshare of
15 the company with the profit interests folks being able
16 to sit on the board and have voting privileges, and
17 they get a percentage of the company at any time we
18 reach a profit, then they get a percentage of that
19 profit. And that's Greg, Xiaobing, Sharon.

20 Q. I am going to slow you down there. What is
21 Greg's full name?

22 A. Gregory Chmura.

23 Q. And what is Xiaobing's full name?

24 A. Xiaobing Shuai.

25 Q. Can you spell that for the court reporter?

1 A. X-I-A-O-B-I-N-G. Shuai, S-H-U-A-I.

2 Q. And what was Sharon's full name?

3 A. Sharon Simmons.

4 Q. And you say that they had a profit
5 interest, correct, the three of them?

6 A. Yes, I did.

7 Q. Does anyone else have a profit interest
8 other than the three of them?

9 A. No, they don't.

10 Q. And what percentage of ownership does --
11 did Chris Chmura have?

12 A. 51.

13 Q. That was 5 1 or a 6 1?

14 A. That's a 5 1.

15 Q. What percentage of ownership does John
16 Chmura have?

17 A. 5 0.

18 Q. So the other 2 1/2 % -- I'm sorry --
19 1 1/2%, who owns the last 1 1/2% of the company?

20 A. The three profit interests folks.

21 Q. Is that interest split evenly?

22 A. I believe Greg is a 1/2% more than Xiaobing
23 and Sharon.

24 Q. Now, Chmura is a limited liability company,
25 correct?

1 A. Correct.

2 Q. And it was organized under the laws of
3 Virginia; is that correct?

4 A. Correct.

5 Q. Do you know when it was formed?

6 A. 1998.

7 Q. And has it been continuously in operation
8 since then?

9 A. Yes.

10 Q. What does Chmura do?

11 A. We have a consulting side which is made up
12 of economists and mathematicians, and we do consulting
13 work. And on the other side of the house is
14 technology, JobsEQ is our technology platform. And
15 then we have some portals that come off of that
16 dashboard that we also provide to our clients.

17 Q. Can you explain a little bit more about
18 JobsEQ and what it is?

19 A. JobsEQ is a technology platform. It is
20 software as a service, it is a SaaS product as opposed
21 to data as a service, which is a DaaS product. And
22 clients use the labor data information in JobsEQ to
23 make better decisions about their communities.

24 Q. Who does Chmura sell JobsEQ to? I don't
25 need specific names.

1 Let me rephrase my question so it is fair.

2 What type of entities does Chmura sell JobsEQ to?

3 A. B to B. B to G.

4 Q. Can you break that down for the layman, for
5 me?

6 A. Business to government and business to
7 business.

8 Q. What type of businesses does Chmura sell
9 to?

10 A. Corporate organizations.

11 Q. Will they sell to any corporate
12 organization, or is there a particular type of
13 organization that purchases JobsEQ?

14 A. It varies.

15 Q. Could you give me some examples of the
16 industries that JobsEQ is sold to?

17 A. In which vertical?

18 Q. Well, why don't we start with explaining
19 what a vertical is.

20 A. A vertical is a market segmentation based
21 on industry mix. So a vertical might be corporate. A
22 vertical is education. A vertical is economic
23 development. A vertical is workforce development. A
24 vertical is site selection and site selection
25 consulting, including corporate real estate.

1 Q. All right. So what industry does -- what
2 industry does JobsEQ sell to within those verticals
3 then?

4 A. There is a lot of industries.

5 Q. Is there any industry that JobsEQ -- sorry,
6 let me rephrase that.

7 Is there any industry that Chmura does not
8 sell to?

9 A. Well, there is over 1100 industries, and
10 then within industries, you have mixed mediation, the
11 types of industries that are within the punitive med
12 code, so we would have to be here for a year to talk
13 about that. Can you be more specific?

14 Q. How about just give me broad strokes of the
15 type of industries that Chmura sells to.

16 A. Healthcare, education, workforce
17 development, corporate real estate, community colleges,
18 four year education -- either a four year college or a
19 two year community college.

20 Q. Are there any other broad categories you
21 would include?

22 A. No.

23 Q. Now, you said that there were -- if I heard
24 correctly, there are portals off the dashboard that
25 would also be sold in addition to JobsEQ by Chmura; is

1 that correct?

2 A. That is correct.

3 Q. What are those portals? Do they have --
4 let me ask one question. Do those portals have names?

5 A. Have any --

6 Q. Do those portals have specific names?

7 A. Yes. Labor --

8 Q. What are they?

9 A. Tell me when you are ready for me to speak.

10 Q. I'm ready. Please go ahead and tell me the
11 names.

12 A. LaborEQ, Career Concourse, Realtime
13 Intelligence, Resume Forensics.

14 Q. Are there any others?

15 A. Not that are commercially available at this
16 time.

17 Q. And are those add-ons to the JobsEQ
18 products?

19 A. They are upsells.

20 Q. Prior to being called Chmura Economics &
21 Analytics, LLC, did the company go by a different name?

22 A. Capital Research & Analytics.

23 Q. When it was Capital Research & Analytics,
24 did the company do anything different than it does now?

25 A. It was strictly consulting.

1 Q. When did it change from strictly consulting
2 to also having the tech side?

3 A. The tech side started emerging in 2002.
4 The name was changed in 2003.

5 Q. Why did it change its name? Why was the
6 name changed?

7 A. Chris' business partner did not want to be
8 in business. He preferred to be in academia.

9 Q. I am going to show you what's been marked
10 as Defendant's Exhibit C. I'll let you page through
11 that for a moment.

12 - - - - -
13 (Thereupon, Deposition Exhibit C, Copy
14 of Articles of Organization for a
15 Domestic Limited Liability Company,
16 Ohio, Dated 9/2/2011, was marked for
17 purposes of identification.)

18 - - - - -
19 MR. POWELL: Heidi, this Tom Powell. In
20 the meantime, I am getting a little reverb on my
21 hearing, and I'm wondering if it's -- do you have two
22 audio lines on in your room or just one, Heidi?

23 MS. SIEGMUND: No, we're only connected to
24 our speakers.

25 MR. POWELL: All right.

1 - - - - -

2 (Short pause off the record.)

3 - - - - -

4 BY MS. COOPER:

5 Q. Ms. Peterson, have you had a chance to
6 review Exhibit C?

7 A. I am trying to.

8 Q. Do you recognize this document?

9 A. I do not.

10 Q. Have you ever seen it before?

11 A. I have not. If I have, I don't recall.

12 Q. Are you aware of whether -- let me rephrase
13 that.

14 Did Chmura, the Virginia company, ever
15 register to do business in Ohio?

16 A. We did.

17 Q. Do you recall when that occurred?

18 A. Should have been in 2005.

19 Q. When did Chmura open an office in Ohio?

20 A. 2005.

21 Q. What other location is Chmura located in?
22 Let me rephrase.

23 What other locations does Chmura have
24 offices in?

25 A. Can you define, office?

1 Q. Physical office space.

2 A. Midlothian Texas. Rye Cove, Virginia.

3 R-Y-E, C-O-V-E.

4 Q. And then, also, the location in Cleveland
5 Ohio, correct?

6 A. Correct.

7 Q. I want to take a step back for a second and
8 I notice there is a lot of shared names amongst the
9 ownership. Can you tell me the relationship of the
10 owners of the company, if any?

11 A. You're talking about a biological
12 relationship?

13 Q. Yes.

14 A. Okay. So Chris is a sister to Greg, and
15 John is a nephew of Chris.

16 Q. Are you related to any of them?

17 A. No.

18 Q. Are any of the other, the profit -- forgive
19 me, I have to go back and look and see what you said
20 they were --

21 A. Profit interests.

22 Q. Profit interests. Are they in any way
23 related, other than Mr. Greg Chmura?

24 A. No.

25 Q. How many employees does Chmura currently

1 have?

2 A. It's around 35.

3 Q. And has it always had about that same
4 number of employees?

5 A. Can I go back and correct that statement?

6 Q. Absolutely.

7 A. It's around 45.

8 Q. Let's take it a year at a time.

9 Approximately how many employees did Chmura have in
10 2019?

11 A. Around 45.

12 Q. Same for 2018?

13 A. No, we hired 15 people between 2018 and
14 2019.

15 Q. What was the reason for the additional
16 hiring?

17 A. When you are growing a technology
18 organization, it has to scale. And what I mean by
19 scale is if you add inside sales, account managers,
20 outside sales, then you have to add to data governance,
21 then you have to add to your IT staff, and then you
22 have to add marketing people. So the whole
23 organization must scale.

24 Q. So did you add positions to all those
25 different categories?

1 A. We have no inside salespeople.

2 Q. What type of salespeople do you have?

3 A. Account managers.

4 Q. Account manager is a title, correct?

5 A. Well, it is more than a title. Account
6 managers are client facing; more than an inside
7 salesperson. Client facing is setting up meetings,
8 going to client sites and doing demos, going to
9 conferences.

10 Q. The account managers, where are they based?
11 Let me rephrase that.

12 Where does an account manager work from?

13 A. Right now, everyone is working from home.

14 Q. In 2019, where did the account managers
15 work from?

16 A. They worked out of the Richmond office and
17 they worked out of the Cleveland office.

18 Q. And were they present in those offices,
19 physically present in those offices when they were
20 working?

21 A. Not always.

22 Q. Approximately -- take the Richmond office,
23 approximately what percentage of the workday was an
24 account manager present in the Richmond office?

25 A. Currently, we have got only Wilson there

1 and he does a good bit of traveling across Virginia to
2 see the career and technical client.

3 Q. In 2019, how much time did the account
4 managers in Richmond spend in the office as a
5 percentage -- on a percentage basis?

6 A. I would have to do that math on that. I
7 didn't come prepared to do that.

8 Q. Did they spend more time in the office than
9 outside of the office?

10 A. Probably, yeah.

11 Q. What about the account managers in
12 Cleveland? Did they spend more time in the office than
13 out of the office?

14 A. Probably.

15 Q. Would you say that they spend more than 75%
16 of their time -- take the Cleveland office, if you
17 know, would you say that they spend more than 75% of
18 their time in the office?

19 A. I couldn't put a number like that on it.

20 Q. What would you need to look at to determine
21 how much time they spent in the office?

22 A. The way they explain conferences a year.
23 We've got folks traveling all over the country, so I
24 would have to do the math.

25 Q. What would the account managers be

1 traveling for?

2 A. Conferences and client meetings.

3 Q. And how frequently would an account manager
4 in 2019 travel for a client meeting?

5 A. For a client meeting? Let's see, we did
6 training in Atlanta. It's not the lionshare of their
7 outside facing time. It's not a portion of time which
8 would be client meeting. Client meeting was often held
9 around conferences because it was more convenient. So
10 they might be at the conference, but they might
11 schedule a meeting in one of the rooms there at the
12 conference hall and have a meeting.

13 Q. And what would they do at these conference
14 meetings?

15 A. They would be discovery with the client.
16 They would demo JobsEQ. They would help in an advisory
17 role in how they can think about their particular
18 industry, especially business to government, on
19 spending cycles and strategies to acquire funds to
20 purchase JobsEQ.

21 Q. Were these current clients that they were
22 traveling to?

23 A. Not always.

24 Q. How frequently were they traveling to speak
25 with a prospective client?

1 A. I am not going to be able to put a number
2 on that.

3 Q. What documents would you need to review to
4 be able to put a number on that?

5 A. I would have to go back and pull everyone's
6 calendar, align it with the conference calendars. I
7 would have to understand that -- why was -- where were
8 they? And I'm three steps removed from that.

9 Q. At any point in time, did Chmura have an
10 inside sales team?

11 A. No.

12 Q. Never? It never had an inside sales team?

13 A. We call them account managers.

14 Q. So an inside sales would have the title of
15 account manager; is that correct?

16 A. Yes.

17 Q. Okay. So an account manager then is doing
18 inside sales, by your testimony, correct?

19 MS. SIEGMUND: Object to the form of the
20 question. You can answer.

21 A. An account manager spends a portion of his
22 time on the phone.

23 Q. That's not what you just testified to. You
24 just testified that an account manager is an inside
25 sales representative, correct?

1 A. No, I did not. No, I did not.

2 Q. Can you define for me what you mean by
3 inside sales?

4 A. We don't have one, so I really can't.

5 Q. Well, then --

6 A. To me, it would be somebody that does not
7 travel. They don't have the freedom to make decisions
8 and negotiate contracts. They are never client facing.

9 They are not in an advisory capacity to
10 their client on how to finance deals. They are not
11 part of the strategy of accomplishing where the company
12 wants to be in five years. They are not advisors back
13 to the technology group. They are none of those things
14 that --

15 Q. But --

16 A. -- the account managers have the privilege
17 of doing.

18 Q. So what you are telling me is an inside
19 sales representative would never talk to or face a
20 client?

21 MS. SIEGMUND: Object to the form of the
22 question. You can answer.

23 A. They talk to the client on the phone only.

24 Q. A moment ago you testified that they would
25 -- they would never be client facing. What do you mean

1 by client facing?

2 A. Client facing is when you are outside the
3 organization, in the client home base. You are outside
4 the organization at a conference, meeting clients,
5 exchanging cards, taking breaks together, networking,
6 building relationships with your client that you can't
7 do over the phone. That's why we have conferences, and
8 that's why we spend a lot of money sending our best
9 folks to conferences.

10 Q. Do you know how many trips the account
11 managers -- actually, let me retract that question.

12 What are the -- does Chmura have a sales
13 team?

14 A. Can you repeat that?

15 Q. Sure. Does Chmura have a sales team?

16 A. Yes.

17 Q. And what are the job titles contained
18 within the sales team?

19 A. Account manager, senior account manager,
20 territory manager, which we don't have one, and then
21 sales manager.

22 Q. What was the difference between an account
23 -- or what is the difference between account manager
24 and senior account manager?

25 A. When an account manager comes on board

1 from, oh, let's say, the collections industry and they
2 come into a technology backed platform that is very
3 complex, based on the laws of economics, and they have
4 to learn the platform. They have to learn the clients.
5 They have to learn to think and talk, to uncover the
6 client's pain points, and they have to be savvy enough
7 in the tool to be able to go into the particular
8 dimensions of the platform to help solve their
9 problems.

10 And you can't do that on day one. It takes
11 three months to be demo ready. It takes six months
12 before you can start closing deals, and then even after
13 that time, it takes another, probably, total of 18
14 months to get to where you are really in your groove.

15 Q. So when do you become a senior account
16 manager?

17 A. Well, in Rick's case, it was May --

18 Q. I didn't ask -- hold on. Answer the
19 question I ask, please. Ordinarily, when does an
20 account manager become a senior account manager?

21 A. When their performance is so much more
22 obvious in terms of closed deals, that they are
23 respectful at conferences, they know how to -- they
24 know how to be outward facing and be professional, and
25 they know the tool.

1 Q. At what point -- is there a very specific
2 time cut off to become a senior account manager?

3 A. No.

4 Q. Who makes the decision to move someone from
5 account manager to senior account manager?

6 A. That decision is typically reviewed by the
7 sales manager with the SEA Group, that's the Strategy
8 Enterprise Advisers Group.

9 Q. What is the quickest anyone has gone from
10 account manager to senior account manager?

11 A. 18 months.

12 Q. And who was that?

13 A. Mr. Lombardo and Austen Steele.

14 Q. As far as -- you threw a lot at me, so I've
15 got to unpack some of that. It is going to take me a
16 minute.

17 What metrics are reviewed to determine when
18 an account manager becomes a senior account manager?

19 A. They are consistently closing three deals a
20 month. All deals are consistently above the average
21 sales price of \$8,500. They are taking on leadership
22 roles within the sales team. Examples are,
23 implementation of Salesforce, training new salespeople,
24 exhibiting best practices within the organization,
25 contributing to IT assets and new analytics, bringing

1 intelligence from the industry and the marketplaces
2 about what is actually needed.

3 Q. If an account manager doesn't have an
4 opportunity to interact with clients, how is an account
5 manager ever supposed to be able to achieve those
6 benchmarks?

7 A. Account managers will be able to achieve
8 the benchmarks as they grow and mature in the product,
9 as they have clients, as they become more familiar.

10 Q. And one of the -- one of the benchmarks is
11 implementing Salesforce. What does that mean?

12 A. We don't restrict new hires to be savvy in
13 Salesforce. It's a CRM, and there is a lot of them.
14 So sometimes they come in and then they have ACT as
15 their background and CRM, but Salesforce is considered
16 the blue standard, or blue ribbon standard in SaaS
17 products because it itself is a SaaS product.

18 So some people figure that out more quickly
19 than others. So to be able to say you implemented
20 within the sales team, or the best practices, or
21 Salesforce, that's what that means.

22 Q. What are the standards that would
23 demonstrate you have now implemented best practices on
24 Salesforce?

25 A. I'm sorry? What was the standard?

1 Q. What are the best practices? You
2 referenced best practices would have affected
3 Salesforce. What are those best practices?

4 A. I am not a Salesforce user, but I can tell
5 you that with all of the metrics that are in
6 Salesforce, you can breakout so much information about
7 how quickly the information gets implemented, like,
8 same day, realtime, rather than, like, waiting to
9 Friday to do implementation. It needs to be realtime.
10 At the same time you are sending an email, you are
11 documenting in Salesforce, and you are leading a phone
12 call.

13 Q. You are using implementation in a way I
14 never heard it used. Can you define for me what you
15 mean by implementation?

16 A. It's a technology platform that has to be
17 implemented across an organization. So when we first,
18 as the sales team, started using Salesforce, we didn't
19 know how to use it to its fullest potential, and so we
20 never really, fully implemented it to take full
21 advantage of its many, many facets.

22 Q. I'm still not sure you answered the
23 question as to what you mean by implementing. I am not
24 following what you mean by implementing Salesforce.
25 What do you mean by implementing?

1 A. Best practices. So you are trying to set
2 up a demo, that's your goal, right? And that's the
3 metrics within Salesforce. So to be very efficient
4 with Salesforce, you need to be able to triangulate
5 your thinking. And when you triangulate your thinking
6 between email, documentation of Salesforce and making a
7 phone call to get the demo set up, that's a best
8 practice. And that's implementing the tool further
9 than we can implement it until we learn how to do that.

10 Q. So really what you are saying is, that as
11 you learn how to use Salesforce -- let me rephrase
12 that.

13 The better you understand how to use the
14 tools within Salesforce, the more likely you are to
15 move from account manager to senior account manager; is
16 that correct?

17 A. Yes.

18 Q. Other than increasing your skill set, what
19 -- let me take a step back.

20 What I am hearing you say is an account
21 manager is, essentially, a new employee, or an employee
22 that is not well versed in the technology that Chmura
23 uses. Is that a fair representation of what an account
24 manager would be defined as?

25 A. There are more functions than that, but

1 those are key functions.

2 Q. So a senior account manager is someone who
3 has both spent time at Chmura to learn both the product
4 as well as the technology used to sell the product; is
5 that fair?

6 A. It is not fair because you are leaving out
7 the public facings, client facing piece of that, which
8 put them on the outside of the organization.

9 Q. So an account manager is never allowed to
10 travel anywhere; is that correct?

11 MS. SIEGMUND: Object to the form of the
12 question. You can answer.

13 A. It varies by person.

14 Q. Well, even an account manager could leave
15 the office to do something relating to their sales
16 position; is that correct?

17 A. I don't understand.

18 Q. I am trying to understand the difference
19 between an account manager and a senior account
20 manager.

21 Putting it simply, as simply as you can,
22 what is the difference between an account manager and a
23 senior account manager?

24 A. Talent, knowledge, tenure.

25 Q. I'm sorry, what was the last one?

1 A. Tenure.

2 Q. Okay. Who supervises account managers?

3 A. Sales managers.

4 Q. Who supervises senior account managers?

5 A. Sales managers.

6 Q. Since 2015, who were the account managers
7 at Chmura, both current and former?

8 A. Are you speaking for one year, 2015?

9 Q. Since 2015. So from 2015 forward, can you
10 please name the account managers that are either
11 current employees or former employees of Chmura?

12 A. So there was Rick Lombardo, Huey
13 Dandee(ph), James Donovan, then there was David
14 Aultman, Wilson Cox Jennifer Ludvik. Oh, I left out
15 Austen Steele. And Doug Cey, C-E-Y.

16 Q. In my count, that was eight account
17 managers since 2015; is that correct?

18 A. I don't know if that's the correct number.
19 I am speaking from memory.

20 Q. Okay. How many of the ones that you listed
21 are still currently employed at Chmura?

22 A. Wilson Cox. Oh, I left out the new sales
23 team. Sorry. Can I go back and add to the other
24 people?

25 Q. Of course.

1 A. And do you need the managers names?

2 Q. Let's start with the account managers
3 first.

4 A. Okay. So there's Stephanie Wiley, Sarah
5 Manfroni, Anthony Marchetto, and Derrick Reese. I am
6 not sure if I got Derrick's name right. He is the
7 latest that's come in.

8 Q. Of the four you just named, who is still
9 employed at Chmura?

10 A. Of the last four I just named?

11 Q. Yes.

12 A. All of them.

13 Q. Does Chmura currently have any senior
14 account managers?

15 A. We have one.

16 Q. And who is that?

17 A. Stephanie Wiley.

18 Q. How long has Stephanie Wiley been a senior
19 account manager?

20 A. She was a senior account manager from
21 November -- I'm sorry, December until April, at which
22 time she was put on a performance improvement plan and
23 demoted back to account manager. So she is not
24 traveling.

25 Q. So currently -- well, let me take a step

1 back. In 2019, how many senior account managers did
2 Chmura have?

3 A. Two.

4 Q. And who were they?

5 A. Mr. Lombardo and Austen Steele.

6 Q. Was -- when did Mr. Lombardo become a
7 senior account manager?

8 A. On May 18, 2017.

9 Q. When did Mr. Steele, Austen Steele, become
10 a senior account manager?

11 A. At the same time.

12 Q. When was Mr. Lombardo hired by Chmura?

13 A. February 18, 2015.

14 Q. And what about Mr. Steele?

15 A. In August of the next year.

16 Q. Who -- can you name the sales managers that
17 have held the sales management position at Chmura since
18 2015?

19 A. Is that somehow different than the account
20 managers?

21 Q. You testified earlier that account managers
22 reported to sales managers.

23 A. Oh, I'm sorry. Yes, correct. I thought
24 you said sales manager as in managing account.

25 Q. Can you --

1 A. So that would be --

2 Q. I'm sorry. I was just going to repeat my
3 question, but go ahead.

4 A. Leslie Peterson, Kyle West, Greg Chmura,
5 Curtis Monk, Eli Auerbach, and now interim is Dr. Bryan
6 Shelly.

7 Q. From what period of time were you a sales
8 manager?

9 A. February 2015 until October 2017.

10 Q. And Mr. West, from what period of time was
11 he a sales manager?

12 A. He was -- to the best of my knowledge, he
13 was there in like -- like nine months, and so he wasn't
14 there a full year.

15 Q. And did he start immediately after you
16 moved to a different position?

17 A. Do you mind repeating that question?

18 Q. Did he take on the sales manager role in
19 concurrence with you taking on a new role in October of
20 2017?

21 A. He took on that role because I needed to
22 move more into marketing and strategy development.

23 Q. And that was in October of 2017, right?

24 A. I don't know if I have that exact month
25 correct. I know we had a conversation in October.

1 Q. Do you know approximate dates that Greg
2 Chmura was a sales manager?

3 A. That was around July 8, 2018.

4 Q. And how long was he a sales manager for?

5 A. He was a sales manager until -- let's see.
6 Let me go back and go through the series of events. So
7 Kyle came in in October, and then when we got to be to
8 December, he wanted to go to Italy with his wife. So
9 he was gone for two months, and then he came back in
10 May of 2018.

11 At that point, we had to put him on a
12 different path because he couldn't manage the sales
13 team from Italy. So that's when Greg took over. So
14 sometime around January 2018 was Greg.

15 And Greg kept it until Mr. Monk came
16 because we needed Greg to get more focused on -- we
17 needed Greg to be more focused on data governance. And
18 that's when Mr. Monk came in, in, like, October.

19 Q. Was that October of 2018?

20 A. Yes.

21 Q. And how long was Mr. Monk a sales manager
22 for Chmura?

23 A. He left in February -- February 1st of
24 2019.

25 Q. And then did Mr. Auerbach -- Eli Auerbach,

1 when was he a sales manager? When did he start as a
2 sales manager?

3 A. He was April 15, 2019.

4 Q. And when did he move on from the sales
5 manager position?

6 A. It was in November of 2019.

7 Q. Is he currently employed by Chmura?

8 A. No.

9 Q. Is Curtis Monk currently employed by
10 Chmura?

11 A. No.

12 Q. Greg Chmura is still employed at Chmura,
13 correct?

14 A. Yes. He's a profit interest partner.

15 Q. Is Mr. West still employed by Mr. Chmura?

16 A. No, he left April 15th of this year.

17 Q. And the last one you said, I believe, was
18 Dr. Bryan Shelly; is that correct?

19 A. Shelly. S-H.

20 Q. And is he currently employed at Chmura?

21 A. He is.

22 Q. During Mr. Lombardo's employment at Chmura,
23 of the list of sales managers you just listed, who did
24 he report to?

25 A. All of them.

1 Q. Did he report to Mr. -- Dr. Shelly?

2 A. No.

3 Q. Mr. Lombardo reported to you, correct?

4 A. Yes.

5 Q. And then he reported to Mr. West?

6 A. Yes.

7 Q. And then to Greg Chmura?

8 A. Yes.

9 Q. And then to Mr. Monk?

10 A. Yes.

11 Q. And, finally, to Mr. Auerbach; is that
12 correct?

13 A. Yes.

14 Q. Other than the sales managers -- let me
15 rephrase.

16 There were account managers, senior account
17 managers and sales managers within the sales team,
18 correct?

19 A. Correct.

20 Q. Were there any other --

21 A. Yes, sales support coordinators.

22 Q. And what did the sales support coordinator
23 do?

24 A. She is supporting roles for all of the
25 account managers and senior account managers that

1 ranged from expediting paperwork, researching industry,
2 providing support on the license agreements when
3 needed. She organized some outside bills, listing
4 tours. So she was our ad man.

5 Q. And you are referring to she. Who is that?

6 A. Samantha Solintics.

7 Q. Is she still employed --

8 A. S-O-L-I-N-T-I-C-S.

9 Q. And is she currently employed by Chmura?

10 A. No, she left at the end of April.

11 Q. Does Chmura currently have a sales support
12 coordinator?

13 A. We do not.

14 Q. Was she there during the entirety of
15 Mr. Lombardo's employment?

16 A. No, she was not. She came in after Eli
17 took over the management role. He hired her.

18 Q. Was there a sales support coordinator hired
19 prior to Samantha?

20 A. There was a sales, SDR, sales development
21 person that would -- that could participate in
22 commissions if they were prospecting and set the demo
23 up, and then the account manager or senior account
24 manager took that demo to close, and they got a small
25 portion of the total commission. We only had one of

1 those, and he really didn't perform, so we moved away
2 from that S D R model to the sales --

3 Q. Who was that? Sorry. Who was that?

4 A. Josh Jones.

5 - - - - -

6 (Short pause off the record.)

7 - - - - -

8 MS. COOPER: Back on the record.

9 BY MS. COOPER:

10 Q. Ms. Petersen, I am going to share my screen
11 again and move on to the next topic here. I am going
12 to move down to Topic Number 11. It states, "The
13 negotiation, drafting and terms of the documents
14 attached as Exhibit A, the February 3, 2015 letter;
15 Exhibit B, the Confidentiality, Non-Competition,
16 Non-Solicitation Agreement; and Exhibit C,
17 March 28, 2019, Amendment to the Counterclaim."

18 You were designated as the corporate
19 representative to testify on this topic; is that your
20 understanding?

21 A. It is.

22 Q. I am going to show you what's been marked
23 as Defendant's Exhibit E.

24 - - - - -

25 (Thereupon, Deposition Exhibit E, Copy

1 of Letter Dated 2/3/15 to Richard
2 Lombardo, Bates CHMURA000097, was
3 marked for purposes of identification.)

4 - - - - -

5 MS. COOPER: Heidi, I will send this to you
6 as well.

7 A. (Reviewing.)

8 Q. Do you recognize this document?

9 A. I do.

10 Q. And what is it?

11 A. It's an offer of employment, a letter.

12 Q. And it's directed to Mr. Lombardo, correct?

13 A. Yes.

14 Q. And if you turn to the second page, is that
15 your signature under, Sincerely?

16 A. Yes.

17 Q. Is this a true and accurate copy of the
18 February 3, 2015 letter to Mr. Lombardo?

19 A. It appears to be.

20 Q. If you go back up to Page 1, there is some
21 handwriting on this page. Is that your handwriting?

22 A. No.

23 Q. Do you know whose handwriting that is?

24 A. I don't.

25 Q. Now, if you look at this letter, it says,

1 "It is our pleasure to detail an offer of employment as
2 an inside sales representative with Chmura Economics &
3 Analytics at our Cleveland, Ohio office." Do you see
4 that at the very top?

5 A. I can.

6 Q. So the offer to Mr. Lombardo, should he
7 accept, was to be an inside sales representative at
8 Chmura, correct?

9 A. That was the language that was given to us
10 by the recruiter.

11 Q. Did -- who prepared this letter?

12 A. The recruiter.

13 Q. The recruiter is -- sorry, go ahead and
14 finish that.

15 A. It was transferred to our letterhead.

16 Q. This -- was it a recruiter you were working
17 with?

18 A. No, John was working with Jennifer.

19 Q. But it was a recruiter who was acting on
20 behalf of Chmura?

21 A. Working on behalf of Mr. Lombardo and
22 Chmura.

23 Q. Did you retain a recruiter to fill a
24 certain position?

25 A. We did.

1 Q. And was the recruiter that you retained the
2 recruiter who prepared the letter?

3 A. It is my understanding that that's where
4 that came from, the details of it.

5 Q. So your testimony is that a recruiter
6 decided on Mr. Lombardo's title at Chmura upon hiring?

7 A. That's my understanding because there was
8 some forms that came in and they asked about exempt and
9 non-exempt, and we chose exempt, and Jennifer said,
10 perfect.

11 Q. Who is Jennifer?

12 A. She was the recruiter.

13 Q. So your testimony is that Chmura let a
14 recruiter determine what position would be filled; is
15 that correct?

16 A. Chmura gave a description of the -- a job
17 description of the need so that an ad could be placed,
18 and in that ad, there was the need for a sales
19 representative. However, before we ever went to the
20 recruiter, we met with ComDoc, ComDoc in Cleveland, to
21 get an understanding of how they grew from a very small
22 start-up LLC to a very large one. So that was our
23 vision for our sales team, was to start very small and
24 grow and increase our technology sales.

25 So we took that model from ComDoc and

1 explained that to Jennifer. And this was John doing
2 all this. And then from there, the ad was placed and
3 the information was conveyed back and forth between
4 Jennifer and John.

5 Q. And when you refer to John, you are
6 referring to John Chmura?

7 A. Yes, because he was in Cleveland.

8 Q. And in accordance with this offer letter,
9 Chmura offered Mr. Lombardo an annual base salary plus
10 commission as the compensation structure, correct?

11 A. Yes, that's the compensation structure that
12 we took from ComDoc.

13 Q. And you earlier testified that it was a
14 true and accurate copy of the letter, correct?

15 A. It looks like it.

16 Q. Is there anything about this letter that's
17 inaccurate?

18 A. Well, I don't know whose handwriting that
19 is, and there was a typo on there, merit increases.
20 That was never put in any sales account manager's offer
21 letter. That was a carry over from somewhere.

22 Q. Can you point me, or read the language that
23 you are referring to in the letter?

24 A. Certainly. "After three months employment,
25 you will also be eligible for annual merit increases

1 upon approved performance by your management." And
2 that's not in any other account manager's letter.

3 Q. Did you review this letter before you
4 signed it?

5 A. I don't think I did. I think we just had
6 it done in Cleveland and they got my signature on it.

7 Q. Do you think this offer -- well, let me
8 look at the offer. Chmura was offering eight paid
9 holidays over a typical full calendar year, correct?

10 A. At that time, it was eight. Now it is 10.

11 Q. It was 10, but it says 8? Sorry. You said
12 it was 10 paid holidays; is that correct?

13 A. It became 10 in 2020. We added another
14 holiday in 2020.

15 Q. I am not asking about 2020. I am asking
16 about what this letter says. You were offering
17 Mr. Lombardo eight paid holidays, correct?

18 A. We were offering eight at that time, yes.

19 Q. And you earlier testified that the
20 signature on this letter was yours, correct?

21 A. It is my electronic signature.

22 Q. So did you electronically sign this
23 document?

24 A. I don't remember.

25 Q. Are you now stating that your signature is

1 not authentic on this document?

2 A. My signature is authentic on the document.
3 That is my electronic signature.

4 Q. So other than the language that you read
5 about the opportunity for -- I am looking for it here.
6 You read from it. So bullet point -- where is the
7 language that you read that you said was inaccurate?

8 A. "Annual merit increases upon approved
9 performance by your management." That's not the model
10 from ComDoc. The model from ComDoc is that your base
11 will go from 55 to 50 in year two with the
12 understanding and expectation that your commissions
13 would more than offset a drop in base.

14 Q. Other than that, is there anything else
15 inaccurate in that letter? Other than the reference to
16 annual merit increase, is there anything else
17 inaccurate in the letter?

18 A. I am reading it.

19 Q. I'm sorry. What else is inaccurate?

20 A. I don't see --

21 THE WITNESS: Keep going down. There is
22 something else down there.

23 MS. SIEGMUND: (Indicating).

24 A. Nothing else is inaccurate.

25 Q. So Chmura agreed to pay Mr. Lombardo

1 \$55,000 annual base salary for year one, correct?

2 A. Correct.

3 Q. And \$50,000 for year two and forward --
4 going forward, correct?

5 A. Correct.

6 Q. And the commission rate on initial sales
7 was 15%, correct?

8 A. This is -- that is -- that was the details
9 of the offer. The details of how that came about had
10 to do with transitioning from business development
11 manager to a sales team. But not all leads were 100%
12 available. I only took over 15%, but there were just a
13 few of those.

14 Q. But this letter states that Mr. Lombardo
15 would be paid 15% of any initial sales of JobsEQ,
16 correct?

17 A. Some of the sales that were handed to Rick
18 were sales that other people had made --

19 Q. That's not my -- Ms. Peterson, I'd like you
20 to answer my question, which is a simple yes or no
21 question. This letter states that Mr. Lombardo was to
22 be paid 15% of initial sales as the commission rate on
23 JobsEQ sales, correct?

24 A. Correct.

25 Q. What is your definition of an initial sale?

1 A. Of an initial sale?

2 Q. Yes.

3 A. Where is that term used?

4 Q. Well, that would be 15% of initial sales as
5 the commission Mr. Lombardo was --

6 A. Oh, I see, yeah, initial sale.

7 Q. What is an initial sale?

8 A. 15% of initial sale means that that client
9 has been prospected by the account manager, has set up
10 a demo with the account manager, and did the demo by
11 themselves and did not have anyone in the room helping
12 them do that demo. They closed that sale, they did the
13 paperwork for that sale, they invoiced properly in
14 Salesforce and invoiced properly with the accounting
15 department, and they have had four touch points for the
16 next year in order to qualify for the 10% renewal.

17 Q. Was that written in any documentation
18 provided to Mr. Lombardo?

19 A. Yes.

20 Q. What documentation?

21 A. It's in an email in March.

22 Q. Ms. Petersen, you said it was documented in
23 March. March of what year?

24 A. 2015.

25 Q. March --

1 A. Rick was still in training.

2 Q. What written document exists defining that
3 -- defining initial sale as you did?

4 A. It's in a written document to Rick Lombardo
5 and James Donovan transitioning from Rob McMillin, who
6 was business development, to the new sales team that we
7 were just setting up. So we had to think about this as
8 a start-up.

9 Q. Was that document produced in Discovery?

10 A. I did not do Discovery. Sharon put all
11 that together.

12 MS. COOPER: Can we get a copy of that as I
13 think it goes directly to calculating commissions?

14 MS. SIEGMUND: Yes, and I will tell you,
15 not to -- but we learned about that yesterday. So we
16 will certainly get you a copy.

17 MS. COOPER: Thank you.

18 Q. And according to this document,
19 Mr. Lombardo was to be paid 3% of annual renewals,
20 correct?

21 A. Yes.

22 Q. The document you referenced in March, did
23 Mr. Lombardo sign that document?

24 A. We didn't typically have employees sign
25 documents. Our policies do not require that you sign

1 them, except for the employee handbook. And the
2 policies are not in the employee handbook.

3 Q. So is it your position that Chmura can
4 change the compensation structure at any point on its
5 own accord?

6 A. We can.

7 Q. What gives you the right -- what gives
8 Chmura the right to change the compensation structure?

9 MS. SIEGMUND: Object to the form of the
10 question. You can answer.

11 A. A business ebbs and flows, and employees
12 come and go. And if we don't take the steps of
13 prospecting, setting up demos, doing demos, closing the
14 sale, executing appropriate paperwork in a manner
15 that's not sloppy, and working within that process, you
16 don't get the 15%. You have to earn it. And so in
17 some situations, the level of effort they put into a
18 renewal might be the same level of effort that was put
19 into a new sale, simply because those steps were not
20 completed.

21 Q. So even though the renewal would go
22 through, what you are saying is, Chmura wouldn't pay
23 for that, wouldn't pay the account manager for that
24 renewal because it didn't like the way the renewal was
25 handled; is that correct?

1 A. No, that's not what I'm saying.

2 Q. Well, can you repeat what you were saying
3 and -- help me understand what you were saying.

4 A. I'm trying to help you understand the
5 difference between an initial sale and the steps that
6 are involved in the initial sale as compared to 3%
7 renewal. And the steps are very discreet. And if you
8 don't complete all the steps for the initial sale, then
9 we look at the level of effort that it does equate to,
10 and that's how -- and doesn't last long, it should be
11 two or three months.

12 Q. What might be two or three months?

13 A. These warm leads that somebody else did the
14 demos, was somebody else's investment in -- the
15 intellectual investment in doing the demo and
16 proficiency was not done by that -- particularly people
17 that were in training that just inherited other
18 people's work.

19 Q. So if there was a lead that was two or
20 three months old, but you closed the deal on that, that
21 sale -- that account manager wouldn't get the 15%
22 commission, correct?

23 A. I don't understand how you're articulating
24 that. Two or three months' deal? That's not what I --
25 not what I just articulated. You have to prospect --

1 Q. Well --

2 A. -- demo, schedule the demo, do the demo
3 yourself. You can't have Rick or Chmura do your demo
4 for you. And then you have -- those are the steps that
5 merit on an initial sale.

6 Q. Okay. So you get 15% for that initial
7 sale. How do you earn the 3% for annual renewal?

8 A. You have to have quarterly touch points
9 with each account, client. You have to, 60 days out,
10 complete a customer satisfaction survey, and that's how
11 you earn that renewal. It is called, retention.

12 Q. I am going to show you what's been marked
13 Defendant's Exhibit L.

14 - - - - -

15 (Thereupon, Deposition Exhibit L, Copy
16 of Email Chain from Richard Lombardo,
17 Bates CHMURA 0070222 - 223, was marked
18 for purposes of identification.)

19 - - - - -

20 Q. If you could, take a look at this document.

21 A. (Reviewing.) Yeah.

22 Q. Do you recognize this document?

23 A. Yes.

24 Q. What is it?

25 A. It's communications between when Rick

1 started. Chris turned over some leads to him in which
2 he had given demos.

3 Q. And you are copied on this -- well, you
4 communicate through this email chain, correct?

5 A. I do.

6 Q. And is it a true and accurate copy of the
7 emails going back and forth in May of 2015?

8 A. Looks like it.

9 Q. Now, the leads that are referenced in this
10 email that were provided to Mr. Lombardo, how old were
11 those leads?

12 A. So I am trying to see where the Park City
13 Conference was. I think August.

14 Q. I'll point you to, labeled at the bottom,
15 the very first page, Chmura 0070222. If you look at
16 your first email there. If you would read through
17 that.

18 A. Rick's email or mine?

19 Q. Yours. Yours to Mr. Lombardo.

20 THE WITNESS: I don't know which one she --

21 MS. SIEGMUND: Christine, are you referring
22 to this one (indicating), the one I put on the screen
23 here, or the older one?

24 MS. COOPER: Yeah, yeah, that one. The one
25 you have on right now.

1 A. (Reviewing).

2 Q. Does that refresh your recollection of when
3 that contact was made between Chris --

4 A. Yes.

5 Q. When was that?

6 A. The Park City Conference in 2014, I
7 believe, was in August.

8 Q. So as I read this email, it looks like you
9 were stating that the August 2014 contact would still
10 be a warm lead in May of 2015; is that correct?

11 A. Because we followed up with this particular
12 client -- potential client at IEDC, which would have
13 been in October of 2014. Rob McMillin, our business
14 development person, gave her a demo, but did not -- he
15 did not document and use Salesforce correctly, which
16 is -- that was a problem when Rick joined because the
17 information that he had in there was incomplete. And
18 so I think she had three demos from us before she had
19 any contact with Rick. And we had --

20 Q. And -- I'm sorry. Go ahead.

21 A. We were helping her talk to her boss, our
22 board, to get payment.

23 Q. Do you have any documentation showing those
24 contacts?

25 A. Showing her the contract; is that what you

1 said?

2 Q. No. Do you have any documentation showing
3 the date of those demos that you just mentioned?

4 A. Yes, I am sure Chris has that on her sheet.

5 Q. On what sheet?

6 A. The one that she emailed to Rick.

7 Q. What sheet did she email to Rick? Can you
8 be more specific?

9 A. Rob McMillin was not using Salesforce
10 correctly, or at all, and he was at conferences with
11 Chris, and this particular client had been shown JobsEQ
12 three times. Rob was working with her, and it
13 sometimes takes, as Rick can tell you, up to a year to
14 get funding before you can purchase something. The
15 cycle times are pretty long for government entities to
16 be able to purchase, and that was the situation.

17 Q. The Salesforce does not reflect any of this
18 information you are testifying to right now; is that
19 correct?

20 A. No, that particular individual, who is no
21 longer with us, refused to use Salesforce.

22 Q. Going back to Exhibit E for a moment. In
23 the offer letter, it states that Mr. Lombardo's quota
24 was three sales per month. Do you see that, after the
25 three month ramp-up period, correct?

1 A. Yes.

2 Q. Did Mr. Lombardo make his quota each month?

3 A. Mr. Lombardo started making quota in his
4 fifth month.

5 Q. Did you -- sorry, hard to hear numbers on
6 the computer. Did you say fifth, F-I-F-T-H?

7 A. Yes, I did.

8 Q. And do you have documentation to show that
9 he did not start hitting quota until the fifth month of
10 employment?

11 A. It's in Salesforce, but I don't have it
12 with me today.

13 Q. Were those documents produced in Discovery?
14 So did you answer? Were they produced in
15 Discovery?

16 A. I didn't do those documents. I didn't
17 produce the documents in Salesforce. Somebody else did
18 that, so I really don't know.

19 Q. But if I were to -- documents that I would
20 need to verify your testimony would be found within
21 Salesforce; is that correct?

22 A. It should be.

23 Q. If you turn to Page 2, I will scroll down
24 quickly there. Mr. Lombardo signed this offer as well,
25 correct?

1 A. Yes.

2 Q. And do you recognize his signature?

3 A. No.

4 Q. So you don't know whether the signature on
5 this document is his or not?

6 A. Well, it says it is. I mean, I can kind of
7 read the -- read it. I have no reason to believe it is
8 not.

9 Q. Okay. I want to move on to Deposition
10 Exhibit -- Defendant's Deposition Exhibit F.

11 - - - - -

12 (Thereupon, Deposition Exhibit F, Copy
13 of Confidentiality, Non-Competition &
14 Non-Solicitation Agreement, was marked
15 for purposes of identification.)

16 - - - - -

17 A. (Reviewing.)

18 Q. Do you recognize this document?

19 A. Yes.

20 Q. What is it?

21 A. Our employee agreement.

22 Q. And is that your signature on the sixth
23 page that you have up here of Exhibit F?

24 A. Yes.

25 Q. Did you sign this document?

1 A. Yes.

2 Q. Let's scroll all the way back to the top.

3 You can do it, or I can do it.

4 MS. SIEGMUND: I think it is faster if you
5 do it. We have a little bit of a lag.

6 MS. COOPER: Okay.

7 Q. Having reviewed it, is this a true and
8 accurate copy of this agreement?

9 A. It looks like it.

10 Q. And it's titled, Confidentiality,
11 Non-Competition and Non-Solicitation Agreement; is that
12 correct?

13 A. Yes.

14 Q. And you referred to it as an employment
15 agreement. Can you explain why you call it an
16 employment agreement?

17 A. It is an internal term we use to describe
18 the document so we don't have to say Confidential,
19 Non-Competition and Non-Solicitation Agreement. That's
20 very long.

21 Q. Who prepared this agreement?

22 A. McGuire Woods.

23 Q. I want to go through the terms -- a few of
24 the terms of this agreement with you. If you page just
25 down a little bit -- I will page down here for you, the

1 Confidential Section, Section 1, do you see that?

2 A. Yes, I do.

3 Q. According to the terms of Section 1,
4 "Employee", who is Mr. Lombardo, correct?

5 A. Correct.

6 Q. "Shall not, during the term of his/her
7 employment, and thereafter, regardless of the reason
8 for his/her termination, reveal or disclose to any
9 person outside of the company, or use for his/her own
10 benefit or the benefit of any other person or entity,
11 any confidential or proprietary information concerning
12 the business or affairs of the company, or concerning
13 the company's customers, clients or employees."

14 Do you see that?

15 A. Yes.

16 Q. And, company, is Chmura, correct?

17 A. Yes.

18 Q. This Section 1 requires Mr. Lombardo to
19 keep what is defined as confidential and proprietary
20 information, confidential indefinitely; is that
21 correct?

22 A. Yes.

23 Q. And if you flip to the next page here, it
24 says, "Confidential and Proprietary" at the top.

25 "Confidential and proprietary information does not

1 include information already available to the public
2 through no act of employee, nor does it include salary,
3 bonus or other personnel information specific to the
4 employee." Do you see that?

5 A. Yes.

6 Q. So would you agree with me that this carves
7 out compensation information and personnel information
8 pertaining to Mr. Lombardo?

9 A. Yes.

10 Q. In your amended -- in Chmura's Amended
11 Complaint, Chmura alleges that Mr. Lombardo -- let me
12 pull up the complaint here.

13 I am going to show you what's been marked
14 as Defendant's Deposition Exhibit D.

15 - - - - -

16 (Thereupon, Deposition Exhibit D, Copy
17 of First Amended Complaint, was marked
18 for purposes of identification.)

19 - - - - -

20 Q. You can go ahead and take a look at that.

21 A. (Reviewing.)

22 Q. Do you recognize that document?

23 A. Yes.

24 Q. What is it?

25 A. It's the Complaint.

1 Q. And this is the Complaint that Chmura filed
2 -- it is the First Amended Complaint that Chmura filed
3 against Mr. Lombardo, correct?

4 A. Correct.

5 Q. And in this Complaint, Mr. -- I'm sorry --
6 Chmura alleges that Mr. Lombardo retained certain
7 confidential information in violation of Exhibit F,
8 what you refer to as the employee agreement, correct?

9 A. Correct.

10 Q. What confidential information do you allege
11 Mr. Lombardo retained?

12 MS. SIEGMUND: And just to jump in quickly.
13 I know that Dr. Chmura has been designated on all of
14 the trade secrets and so forth that Mr. Lombardo
15 retained. Of course, you are welcome to ask her about
16 this in her professional capacity, but just wanted to
17 clarify.

18 You can answer the question.

19 A. I am not sure what it was. It was about
20 the last topic.

21 Q. What information do you purport -- sorry.
22 What confidential and proprietary information is it
23 that you purport Mr. Lombardo retained?

24 A. Prospects and client information from two
25 conferences that would constitute prospects and

1 renewals.

2 Q. To your knowledge, did Mr. Lombardo -- let
3 me take a step back. Is there any other confidential
4 information, to your knowledge, that is at issue in
5 this case?

6 A. I don't know what's on it. I haven't seen
7 it.

8 Q. What's on what?

9 A. The laptop.

10 Q. To your knowledge, did Mr. Lombardo --
11 well, let me ask a different question first. What are
12 the two conferences you refer to with respect to the
13 prospects and clients information?

14 A. I'm a couple of steps removed, but I
15 believe it was the Texas Economic Development
16 Conference, and the International Economic Development
17 Conference in Indianapolis.

18 Q. As you sit here today, are you aware of any
19 confidential information that Mr. Lombardo revealed or
20 disclosed to anyone?

21 A. I would have to know who the anyone was.

22 Q. As you sit here today, are you aware -- I'm
23 sorry. As you sit here today, are you aware of any
24 confidential information that Mr. Lombardo revealed or
25 disclosed to anyone in the world?

1 MS. SIEGMUND: Objection to the form of the
2 question. You can answer.

3 A. Sorry did you end that with, "the world?"

4 Q. Yes.

5 A. I don't know how to answer that question.

6 Q. Are you aware of any confidential
7 information that Mr. Lombardo revealed or disclosed at
8 any point in time?

9 MS. SIEGMUND: Same objection. You can
10 answer.

11 A. Mr. Lombardo operates out of a different
12 location than I do, and I wasn't at either one of those
13 conferences. I'm sometimes at conferences sharing a
14 booth with him, but I wasn't at either one of those
15 conferences, so at this time, no.

16 Q. After Mr. Lombardo's position, or his
17 employment was terminated, are you aware of any
18 confidential information that Mr. Lombardo revealed or
19 disclosed to anyone?

20 A. No.

21 Q. Are you aware of any confidential
22 information that Mr. Lombardo used for his own benefit
23 after his termination?

24 A. I'm aware of some data that Mr. Lombardo
25 has possession of that may have been used to solicit

1 employment.

2 Q. What data is that?

3 A. Data from JobsEQ.

4 Q. What type of data from JobsEQ?

5 A. JobsEQ is a collection of charts, graphs,
6 tables, information that is in some graphic way
7 presented about the data -- underlying data. And what
8 I saw was extracts of the data and applications for
9 them.

10 Q. Do you know for certain that Mr. Lombardo
11 has that information?

12 A. I have no reason to suspect that he
13 doesn't.

14 Q. And what specific information are you
15 referring to? You cast a broad category, but is it a
16 specific document you are referring to?

17 A. What I was shown was a document.

18 Q. I'm sorry. Can you say that again?

19 A. A document that represents an extract of
20 data from JobsEQ.

21 Q. What specific data did that extract have?

22 A. I did not memorize what the data was. I
23 see it all the time. I recognize it as JobsEQ output.

24 Q. When did Mr. Lombardo come into possession
25 of this data, or this document?

1 A. I wasn't involved in the forensic analysis
2 of that, so I can't give you a date.

3 Q. Are you aware of any confidential
4 information that Mr. Lombardo used for the benefit of
5 another after his termination?

6 MS. SIEGMUND: Objection to the form of the
7 question. You can answer.

8 A. I don't know. No, I'm not aware.

9 Q. Going back to the JobsEQ data that you
10 referred to just a moment ago, is the data itself
11 confidential?

12 A. Yes, our data are confidential.

13 Q. Has the document that you are referring to
14 been produced?

15 A. Yes.

16 Q. And what format was the JobsEQ document you
17 are referring to?

18 A. A scan I believe. I didn't pay attention
19 to the format when I saw it.

20 Q. Was it an Excel spreadsheet?

21 A. No.

22 Q. Was it a chart?

23 A. It had charts, graphs, and tables.

24 Q. So you don't remember what specific
25 information was contained within that document,

1 correct?

2 A. I didn't spend much time with that
3 document. I just recognized it as JobsEQ.

4 Q. I want to go back to Exhibit F and go --
5 page down to Section 3. Section 3 is, "Covenants Not
6 to Compete or Interfere," do you see that?

7 A. Yes.

8 Q. And I want to go through each one of these
9 subsections.

10 The first one, 3a, says that, "Employees
11 shall not own or acquire an interest in or participate
12 in the management or control of any entity that
13 competes against the company by engaging in the
14 company's business in geographic areas in which the
15 company does business." Do you see that?

16 A. I do.

17 Q. Are you aware of -- let me rephrase that.
18 To your knowledge, did Mr. Lombardo -- has Mr. Lombardo
19 owned or currently owned or acquired an interest in or
20 participated in the management or control of any entity
21 that competes against the company by engaging in the
22 company's business in geographic areas in which the
23 company does business?

24 A. What is "interest in"? How do you define
25 interest?

1 Q. Well, this is a document you signed,
2 correct?

3 A. I'm not understanding the question. I'm
4 sorry.

5 Q. Well, you see the language on this page,
6 right? It says that an "Employee shall not own or
7 acquire an interest in or participate in a management
8 or control of any entity that competes against the
9 company by engaging in the company's business in
10 geographic areas in which the company does business,"
11 correct?

12 A. Correct.

13 Q. What does "interest" in that sentence mean
14 to you?

15 A. Employed.

16 Q. Okay. Are you aware or do you have any --
17 let me rephrase.

18 To your knowledge, is Mr. Lombardo -- well,
19 I want to step back. You say "employed." So you think
20 interest means employed? That's your understanding of
21 what interest in this paragraph means?

22 MS. SIEGMUND: Object to the form of the
23 question. You can answer.

24 A. I probably don't know exactly what it
25 means. I am not an attorney. I didn't write it.

1 Q. Well, you -- let's take a step back. You
2 own an interest in Chmura, correct?

3 A. Well, that has a tangible stock associated
4 with it.

5 Q. Okay. Well, assume -- well no, I don't
6 want you to assume anything.

7 Do you have any reason to believe
8 Mr. Lombardo owns a company that competes against
9 Chmura?

10 A. No, I don't.

11 Q. Do you have any reason to believe that
12 Mr. Lombardo owns a part of a company that competes
13 with Chmura?

14 A. No.

15 Q. Moving on to Section B under 3, Section 3b.
16 "The employee shall not directly or indirectly perform,
17 whether as an employee, independent contractor,
18 consultant, agent or owner, the same, similar or
19 substantially similar job duties or services as she/he
20 performed for the company on the date of his/her
21 termination or within the one year period preceding
22 date of his/her termination, for or on behalf of any
23 person or entity that engages in the company's business
24 in any geographic areas serviced by employee or in
25 which employee provided goods or services on behalf of

1 the company during his/her employment with the
2 company." Do you see that?

3 A. I see it.

4 Q. Do you have any reason to believe
5 Mr. Lombardo is in violation of Section 3b as I just
6 read it?

7 A. I don't know what Mr. Lombardo is doing.

8 Q. Do you have any basis for believing that he
9 is employed by a competitor of Chmura?

10 A. I wouldn't know. I know what his LinkedIn
11 said. It wasn't a competitor.

12 Q. Did you say it wasn't a competitor?

13 A. No, not to my knowledge.

14 Q. Do you have -- look at Section 3c. Do you
15 have any basis for asserting that Mr. Lombardo
16 solicited or attempted to solicit for purposes of
17 providing products or services that are the same or
18 substantially similar to the company's business, any
19 individual or entity to whom Mr. Lombardo provided
20 products or services at any time during the period of
21 his/her employment with the company -- I'm sorry --
22 with his employment with the company?

23 MS. SIEGMUND: Object to the form of the
24 question. You can answer.

25 A. I don't know how to answer that because it

1 sounds like three questions to me. Is that one
2 question?

3 Q. I'll break it down. That was a fair
4 comment. Absolutely fair comment.

5 Do you have any basis for asserting that
6 Mr. Lombardo has solicited any of Chmura's customers
7 after his termination?

8 A. Not after.

9 Q. Did Mr. Lombardo solicit customers outside
10 of his job responsibilities during his employment?

11 A. Yes.

12 Q. Who did he solicit while he was employed?

13 A. GIS Web Tech.

14 Q. And what is GIS Web Tech?

15 A. GIS Web Tech is a provider of -- it's
16 geolocation maps for regions that want to promote their
17 buildings in Skype. And more and more of the location
18 providers are wanting to put labor data in the
19 shapefiles, or in the layers of their maps, and GIS Web
20 Tech is the first provider of those web services
21 through our client at South Carolina Power, and that's
22 how we met them.

23 Q. Why do you purport -- what product or
24 services that are the same or substantially similar to
25 Chmura's was Mr. Lombardo attempting to sell to GIS?

1 A. Himself. He was attempting to get a job
2 there.

3 Q. I am going to have you take a look at
4 Section C, read through Section C. I will give you a
5 moment.

6 A. (Reviewing.)

7 Q. Just tell me when you are done.

8 A. That's a very -- I need to unpack that.
9 That's a very dense paragraph.

10 Q. Well, you were designated to testify as to
11 the terms of this agreement, correct?

12 A. I was, but, you know, I am not sure what
13 you are asking of me.

14 Q. What I am asking you is how was
15 Mr. Lombardo -- how was Mr. Lombardo seeking employment
16 at GIS a violation of Section 3c of the agreement?

17 A. It did not. That's not. That's services,
18 through product. That's not employment.

19 Q. Do you have any basis for asserting that
20 Mr. Lombardo -- and I will start one at a time, so we
21 are not packing so much in.

22 Do you have any basis for asserting
23 Mr. Lombardo directly or indirectly diverted -- take a
24 look at D while I read through it as well, and we'll
25 work through this one together.

1 A. (Reviewing.)

2 Q. Just let me know when you are done.

3 A. I am finished.

4 Q. Do you have any basis for asserting that
5 Mr. Lombardo diverted Chmura's business away from
6 Chmura?

7 MS. SIEGMUND: Objection to the form of the
8 question. You can answer.

9 A. So suppliers, licensors, licensees,
10 business relations, there is a lot of damage done
11 between Chmura and GIS Web Tech. That did divert --

12 Q. How did it -- okay, so walk back on that.
13 So Mr. Lombardo applying to GIS, how did that violate
14 Section D of Exhibit F -- Section 3d of Exhibit F?

15 MS. SIEGMUND: Object to the form of the
16 question. You can answer.

17 A. That's a how question and not a what
18 question?

19 Q. Yes, how did Mr. Lombardo's application, or
20 applying for a position at GIS violate Section 3d of
21 Exhibit F?

22 A. So we were planning a longstanding
23 relationship with GIS Web Tech in this industry that
24 could lead to, and we had planned for leading to,
25 sales. And because of the damage that occurred when

1 GIS Web Tech offered him a job and the way that we
2 found out about that caused us a lot of damage and
3 trust between Chmura and GIS Web Tech, damaging future
4 business relationships.

5 Q. What -- did you have conversations with GIS
6 regarding Mr. Lombardo's potential employment at GIS?

7 A. I did.

8 Q. What were those conversations?

9 A. We were presented with a falsified offer
10 letter at Mr. Lombardo's review that -- excuse me? Did
11 somebody object?

12 Q. No. Continue.

13 A. Because the fonts were different, and it
14 was obvious that it was a small company that we knew
15 pretty well who it was, so I did move forward to find
16 out if they are the company that offered this letter to
17 Rick, and they confirmed they were.

18 Q. Okay. How was -- how did that -- how did
19 Mr. Lombardo applying, or how did Mr. Lombardo being
20 considered for employment by GIS affect Chmura?

21 MS. SIEGMUND: Object to the form of the
22 question. You can answer.

23 A. So GIS Web Tech, and like all these other
24 map providers, want to get to your clients. They want
25 to leverage their relationship with you to get to your

1 clients, then they don't have to have as many inside
2 salespeople. So we are not going to hand out our
3 client list to these people. Rick had intimate
4 knowledge of where to take GIS Web Tech in this
5 industry. And that caused damages between GIS Web Tech
6 and Chmura.

7 Q. So Mr. Lombardo -- but what I am hearing
8 you testify is that Mr. Lombardo, by seeking a position
9 at GIS, damaged Chmura?

10 A. I believe the way it was explained to me is
11 that GIS Web Tech was seeking a position for Rick
12 within their organization.

13 Q. So GIS solicited Mr. Lombardo for
14 employment; is that correct?

15 A. That's my understanding of what happened
16 over a dinner conversation. But the offer letter, as
17 we discussed today, is very important in determining
18 the reality of the facts. And the offer letter was
19 doctored and changed, which made us not trust Rick or
20 GIS Web Tech. Those are damages.

21 Q. Well, you could have continued to do work
22 with GIS, correct? Sorry. Chmura could have continued
23 to do work with GIS, correct?

24 A. We have not wanted to move forward with
25 them since that happened, and so the communication is

1 strained, not going where it was supposed to go before
2 this incident.

3 Q. Is GIS a current client of Chmura's?

4 A. This is an interesting sort of
5 intergrained[sic] situation, if you can let me explain
6 it. Maybe this would help you understand.

7 So in this situation, GIS Web Tech was a
8 client to South Carolina Power who was a client to
9 Chmura. But in order for GIS Web Tech to get its
10 business revenues of South Carolina Power, we had to
11 send our data to GIS Web Tech, which means we had a
12 binding relationship with them that they could not do
13 anything else with our data.

14 So we had a contractual relationship. The
15 flow of money, it's more like an Evergreen. It flows
16 through the client to Chmura, and data flows from
17 Chmura to GIS Web Tech. It is complicated.

18 Q. But Chmura ultimately decided -- let me
19 rephrase that.

20 GIS has not decided not to do business with
21 Chmura, correct?

22 A. GIS continues to want to do business with
23 Chmura. Chmura does not feel that they can trust GIS
24 Web Tech to do that.

25 Q. So Chmura is making the choice not to work

1 with GIS Web Tech; is that correct?

2 MS. SIEGMUND: Object to the form of the
3 question. You can answer.

4 A. It's in a situation of trying to repair the
5 relationship, so we are not moving forward.

6 Q. But the repair, if I understand your
7 testimony, has to occur on GIS' end, not on Chmura's
8 end; is that correct?

9 MS. SIEGMUND: Object to the form of the
10 question.

11 A. No, that is not correct.

12 Q. Other than the strained relationship
13 between GIS and Chmura, are you contending that there
14 are any other violations of Section 3d of Exhibit F?

15 A. I am not.

16 Q. Moving on to Section 3e. Do you have any
17 basis for asserting that Mr. Lombardo directly or
18 indirectly on behalf of himself or any other person or
19 entity, recruited, solicited or hired any employee of
20 the company? Of Chmura?

21 A. He was not hiring. He was not in a
22 position to hire anyone, so, no.

23 Q. Okay. Do you have any basis for asserting
24 that Mr. Lombardo violated Section 3e of Exhibit F in
25 any manner?

1 A. I do.

2 Q. What is your basis for believing that a
3 violation occurred?

4 A. So we hired a person in Ohio, and the last
5 name is not popping out right now, his name is Henry.
6 And we noticed that Henry was not making any progress
7 at all in his outreach to prospective clients. And
8 when we had a confidential conversation with him about
9 that, he said, When I got here, Rick said that he would
10 have the rest of the country locked down in a year and
11 he was wasting his time being there. So he was totally
12 demoted by what Rick had said, and we lost that
13 employee.

14 Q. Can you explain to me how that is a
15 violation of Section 3e of Exhibit F?

16 A. He induced or encouraged any employer to
17 terminate their employment. That's exactly what he
18 did. He said, you are not going to make it here, I am
19 going to have everything locked down.

20 Q. Did this Henry, whose last name we don't
21 know, was he -- how was he terminated? How --

22 A. What --

23 Q. Let me -- did Chmura fire Mr. Henry,
24 whatever his last name might be?

25 A. Yes.

1 Q. So Henry did not voluntarily leave
2 employment?

3 A. No.

4 Q. And did Henry -- was he solicited to go to
5 anyone -- to a competitor of Chmura?

6 A. I don't know where Henry is. I didn't keep
7 up with him.

8 Q. I want to turn your attention to Exhibit G.

9 - - - - -

10 (Thereupon, Deposition Exhibit G, Copy
11 of Letter Dated 3/28/2019 to Mr.
12 Lombardo, was marked for purposes of
13 identification.)

14 - - - - -

15 A. (Reviewing.)

16 Q. Do you recognize this document?

17 A. I do.

18 Q. What is it?

19 A. It's an amendment to his original offer
20 letter.

21 Q. Is that your signature on this letter?

22 A. Yes, it is.

23 Q. Is it a true and accurate copy of the
24 amendment?

25 A. Looks like it.

1 Q. Was Mr. Lombardo provided anything in
2 return for signing this agreement?

3 MS. SIEGMUND: Object to the form of the
4 question. You can answer.

5 A. I don't understand the question.

6 Q. Was Mr. Lombardo provided anything in
7 return for signing this amendment?

8 MS. SIEGMUND: Same objection. You can
9 answer.

10 A. I don't know what you are looking for. He
11 had a cost of living increase rather than a merit
12 increase. That may be what you are looking for.

13 Q. How much was the cost of living increase?

14 A. It varied by COLA and the cost of living in
15 2019. I don't know what it was.

16 Q. Was it a one time cost of living increase?

17 A. It was going to be a cost of living
18 increase going forward.

19 Q. Does this letter make any reference to cost
20 of living increase?

21 A. It doesn't.

22 Q. This letter states that, "The reference to
23 annual merit increases is hereby deleted," do you see
24 that?

25 A. Yes. That was a point of contention.

1 Q. And that's referring to annual merit
2 increases that was set forth in Exhibit E, correct?

3 A. Yes.

4 Q. And it states, "All other terms and
5 conditions of the offer letter remain unchanged." Do
6 you see that?

7 A. I do.

8 Q. And Mr. Lombardo would still be entitled to
9 15% in commission on initial sales, correct?

10 A. A company cannot lock themselves into a
11 situation where they cannot adjust to changes in
12 business climate, so I cannot say that I agree with
13 that.

14 Q. Well, this states, "All other terms and
15 conditions of the offer letter remain unchanged,"
16 correct?

17 A. At that time, they did.

18 Q. And the term of the offer, Exhibit E, was a
19 15% commission on initial sales, correct?

20 A. Correct.

21 Q. And a 3% commission on annual renewals,
22 correct?

23 A. Correct.

24 Q. And this letter is dated March 28, 2019,
25 Exhibit G -- let me get back to it. Exhibit G is dated

1 March 28, 2019, correct?

2 A. Correct.

3 Q. This letter also -- or this amendment also
4 clarifies, according to the language, it says, clarify
5 -- "In addition, Chmura, would like to clarify that
6 commissions become payable once Chmura receives the
7 payment on the sale." Do you see that?

8 A. Yes, ma'am.

9 Q. How was payment be made prior to this
10 amendment?

11 A. In real time.

12 Q. What does that mean?

13 A. If it closed in April, the commissions were
14 paid out in May whether we had payment from the client
15 or not. The precedent for changing that was we had
16 turnover, and when we had turnover and it was paid in
17 realtime, the client did not pay, so we had no recourse
18 to get that commission back.

19 Q. How did this affect multi-year deals, this
20 amendment?

21 MS. SIEGMUND: Object to the form of the
22 question. You can answer.

23 A. Multi-year deals is one of the areas the
24 account managers and senior account managers had the
25 most flexibility to negotiate on their own. Multi-year

1 deals are always 15% on year one. Years 2 and 3 are
2 treated as renewals because you have those touch points
3 to retain that client. Even though it is a three-year
4 deal, you still have to go through the process of the
5 four touch points, the customer satisfaction survey, to
6 earn your commission.

7 Q. Now, you say in a multi-year deal, account
8 managers and senior account managers have the most, I
9 am not sure what word you used, ability to negotiate on
10 their own. What did you mean by that?

11 A. Rick had the ability to take 30% off of a
12 list price, and he was empowered to do that knowing
13 that we trusted him not to go there immediately, but to
14 ratchet it down until that was as low as he could go.

15 Q. At what point in his employment with Chmura
16 did Mr. Lombardo, according to you, attain the ability
17 to give that discount?

18 A. I don't know, but by that point, I wasn't
19 in there every day. The day-to-day tasks, I wasn't in
20 there. I just know it happened.

21 Q. Who gave him permission to do that?

22 A. SEA Group.

23 Q. I'm sorry, can you say that again?

24 A. SEA Group, S E A, Strategic Enterprise
25 Advisers. That's a group within Chmura. It's senior

1 leadership.

2 Q. So what is your basis for your statement
3 that Mr. Lombardo was permitted to give a 30% discount?

4 MS. SIEGMUND: Object to the form of the
5 question. You can answer.

6 A. Because he was our top performer. He was
7 our no-huddle quarterback. He was very good.
8 No-huddle quarterback, like Peyton Manning.

9 Q. Got it.

10 A. Omaha. That was Rick. He i s very good at
11 what he does, so we wanted to give him that much
12 freedom.

13 Q. And you don't recall when he was given that
14 authority or permission?

15 A. Not at this time.

16 Q. What's the source of your knowledge that he
17 could give a 30% discount?

18 A. The pricing matrix, the requests of SEA
19 Group to allow that -- and Rick generally maintained
20 the commission documents, terms of prices. So it might
21 have happened under his watch.

22 Q. So did Mr. Lombardo have a different
23 pricing matrix than the other account managers or the
24 senior account managers?

25 A. They all had the same -- they all had the

1 same -- no.

2 MS. SIEGMUND: Make sure you let her
3 finish.

4 Q. Are you finished?

5 A. I did.

6 Q. Was the 30% discount, the authority -- or,
7 sorry. Was Mr. Lombardo's ability to give a 30%
8 discount ever put in writing?

9 A. It's in the pricing matrix, I think.

10 Q. Did Chmura produce the pricing matrix or
11 matrices?

12 A. Yes.

13 Q. How was the pricing matrix stored?

14 A. On Onstage. It's a project collaborative
15 tool.

16 Q. To your knowledge, was Onstage searched for
17 the discovery production in this case?

18 A. I don't know about anything to do with
19 Discovery.

20 Q. So do you know for certain that the pricing
21 matrix was produced?

22 A. I don't.

23 Q. Do you know for certain that 30% discount
24 is noted on the pricing matrix?

25 A. I don't, but I am assuming that's where it

1 is because that's where discounts were always stored.

2 Q. You said that Mr. Lombardo was the only one
3 who could give that discount, correct?

4 A. No, he is not the only one that could give
5 the discount. He just was very good at getting that
6 discount in a measured way that helped the company and
7 helped them. He would not go from list to 30. He
8 would ratchet it down. He was good at that.

9 Q. So you are saying, if I'm understanding
10 correctly, that the other account managers and senior
11 account managers could give a 30% discount, correct?

12 MS. SIEGMUND: Objection to form. You can
13 answer.

14 A. This occurred after I was no longer his
15 supervisor, so I don't want to misspeak.

16 Q. So do you not know?

17 A. I have internal working knowledge of that,
18 but I can't point you to the sale matrix, the pricing
19 matrix where that is. That's not something I reviewed.

20 Q. When did you stop being involved in the
21 day-to-day of the sales team?

22 A. I want to say October of 2017.

23 Q. So while under your -- while you were in
24 charge of sales, did these account managers and senior
25 account managers have discretion to give discounts?

1 A. They were able to get them in -- I got
2 calls on almost a daily basis from Rick. He would say,
3 they can't afford that, this is what they can afford.
4 And my typical response was, what do you recommend,
5 Rick? He would give me his recommendation, and we
6 would go with that.

7 Q. But he had to ask your permission to give
8 the discount, correct?

9 A. Under my watch, he did. I don't know if
10 that was continued, but -- it is not like he didn't
11 come -- he came with a recommendation.

12 Q. I am going to show you what's being marked
13 as Deposition Exhibit N.

14 - - - - -
15 (Thereupon, Deposition Exhibit N, Copy
16 of Email Dated 1/127/2017 from Leslie
17 Peterson, Bates Chmura0056740, was
18 marked for purposes of identification.)

19 - - - - -

20 A. (Reviewing.) That was for the new hires.

21 Q. Do you recognize this document?

22 A. I do.

23 Q. And what is it?

24 A. It's an internal email about the new hires.

25 Q. And this is an email you sent, correct?

1 A. This is for the benefit of the new hires,
2 not Rick.

3 Q. Let me -- let me -- answer my questions.
4 Let's get through my questions first.

5 This is an email that you sent, correct?

6 A. Correct.

7 Q. And it is dated January 17, 2017, correct?

8 A. Correct.

9 Q. And it is addressed to Mr. Lombardo,
10 correct?

11 A. Well, it is addressed to the sales team.

12 Q. And that sales team consisted of
13 Mr. Lombardo, Mr. Steele, Ms. Ludvik, Mr. Grebenc and
14 Mr. Cox; is that correct?

15 A. That is correct. Kyle West is on there for
16 some reason, I don't know why it is.

17 Q. And the subject line says, JobsEQ --

18 A. Oh, I guess that's probably because he was
19 the manager at that time. So, correct.

20 Q. So the subject line says, "JobsEQ
21 Discounts," correct?

22 A. Correct.

23 Q. And the email states, "This is a reminder
24 to and new information for the new additions to the
25 sales organization," correct?

1 A. New hires, yes.

2 Q. Well, the language says, "This is a
3 reminder to and new information for the new additions
4 to the sales organization", correct?

5 A. Correct.

6 Q. What -- so what you're saying is, this only
7 applies to new hires, this email?

8 A. It was for the new hires to understand how
9 that discount could be applied. They had not --

10 Q. Well -- sorry, go ahead.

11 A. No, you go ahead.

12 Q. Well, this email continues to state,
13 "Discounts beyond those documented in the sales matrix
14 pricing sheet need to be individually approved by me,"
15 correct?

16 A. Correct.

17 Q. And "me" refers to you, Ms. Peterson,
18 correct?

19 A. Yes, ma'am.

20 Q. Why would you -- and it goes on to say,
21 "That translates into a case-by-case pre-approval
22 process before communicating pricing to the client,"
23 correct?

24 A. Correct.

25 Q. And, "No exceptions, even when you think we

1 have established a precedent," correct?

2 A. Correct.

3 Q. Now, you earlier testified that this
4 applied only to new hires, correct?

5 A. This was to get the information to new
6 hires. This is a reminder.

7 Q. So it was a reminder to new hires; is that
8 correct?

9 A. That's correct because they -- as a team,
10 they often went to Rick for advice, and he was the
11 go-to person in the team. So this is a reminder that
12 we need to make sure that we are starting at list
13 price.

14 Q. Now, you testified that Mr. Lombardo always
15 came to you with a discount, correct?

16 A. He came to me with a situation analysis:
17 This is what they can afford, this is their situation,
18 this is my recommendation.

19 Q. Did Mr. Lombardo ever give a discount or
20 take a lower list -- a lower price off the list price
21 or below the list price without checking with you first
22 while you were his manager?

23 MS. SIEGMUND: Object to the form of the
24 question. You can answer.

25 A. So my understanding is he always came to me

1 with a recommendation. Yes. That's what I recall.

2 Q. But your testimony is also that these new
3 employees, these new sales managers -- I'm sorry -- the
4 new account managers would go to Mr. Lombardo and ask
5 his opinion, correct?

6 A. That's my understanding. He was a leader,
7 yeah, he was their leader.

8 Q. Do you have any reason to believe
9 Mr. Lombardo wouldn't have advised them to come to you
10 as he did?

11 A. I'm not sure where this questioning is
12 going or what it is you want me to say.

13 MS. SIEGMUND: Just answer the questions.

14 A. No, I don't think so.

15 Q. Let me re-ask the question.

16 Do you have any reason to believe
17 Mr. Lombardo would have advised the new hires to do
18 anything other than to reach out to you regarding
19 discounts or price changes?

20 A. No.

21 Q. I am going to show you what's been marked
22 as Deposition Exhibit -- actually, hold that thought
23 for a moment.

24 MS. COOPER: We can take a break, if you'd
25 like, for a moment.

1 - - - - -

2 (Discussion had off the record.)

3 - - - - -

4 MS. COOPER: Counsel have talked off the
5 the record, and we have agreed to end the deposition
6 for this evening and continue it at 9 o'clock on
7 Wednesday, May 6th in the morning, and keep the
8 deposition open until the time that it is closed.

9 Heidi, I don't know if you have anything
10 else to add to that.

11 MS. SIEGMUND: No, that's fine, thank you.

12 MS. COOPER: Thank you, both.

13

14 (Whereupon, deposition was adjourned at 6:25 p.m)

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1 Whereupon, Counsel was requested to give instruction
2 regarding the witness's review of the transcript
3 pursuant to the Civil Rules.

4

5 SIGNATURE:

6

7 Transcript review was requested pursuant to the
8 applicable Rules of Civil Procedure.

9

10 TRANSCRIPT DELIVERY:

11 Counsel was requested to give instruction regarding
12 delivery date of transcript.

13 Ms. Cooper, Original transcript, and rough
14 transcript, yes.

15 Ms. Siegmund, Certified transcript, and rough
16 transcript, yes.

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REPORTER'S CERTIFICATE

The State of Ohio,)

SS:

County of Cuyahoga.)

I, KELLIANN D. LINBERG, RPR, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, LESLIE PETERSON, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above-referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above-referenced witness.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed WITH ADJOURNMENT.

1 I do further certify that I am not a
2 relative, counsel or attorney for either party, or
3 otherwise interested in the event of this action.
4

5 IN WITNESS WHEREOF, I have hereunto set my
6 hand and affixed my seal of office at Cleveland, Ohio,
7 on this 11th day of May, 2020.
8
9
10

11 
12

13 Kelliann D. Linberg, R.P.R.,
14 Notary Public within and for
15 the State of Ohio
16

17 My commission expires May 25, 2024.
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